Legal Expense Fund Regulation: Public Meeting
U.S. Office of Government Ethics
October 22, 2019

Agenda

I. Introduction
   a. Roundtable Introductions
   b. Background / Status of Rulemaking
   c. Purpose of Meeting

II. Discussion of issues related to legal expense funds
   a. Scope of a legal expense fund regulation, including:
      i. Other possible sources of legal expense payments or legal support (e.g., pro bono assistance, established legal aid providers) outside of a legal expense fund; and
      ii. The types of legal matters to be covered by a legal expense fund regulation if the employee seeks to raise funds for legal expenses arising from those legal matters.
   b. Structure of a legal expense fund, including:
      i. Number of eligible beneficiaries for a legal expense fund;
      ii. Legal structure used to establish a legal expense fund (e.g., trust, limited liability company, etc.); and
      iii. The possibility of different rules for different types of employees.
   c. Other issues

III. Conclude Meeting
   a. Reminder: Comment period open until Nov. 5
Attendees

Raab, Dean  Department of Defense
Mitchell, Cleta  Foley & Lardner LLP
Kim, Min Hee  Office of Science and Technology Policy
Topics Discussed

I. Scope
   a. Other possible sources of legal expense payments or legal support outside of a legal expense fund
      i. Pro bono services
         1. Private law firms
         2. Clinics, fairs, non-profit organizations, bar association-sponsored networks
      ii. Discounted legal services
      iii. Crowdsourcing
      iv. Personal relationship gift exception
      v. Organizations that provide legal services or funding unrelated to status as a federal employee (public interest legal expense funds)
      vi. Employee organizations and unions
      vii. Former employers
   b. The types of legal matters to be covered by a legal expense fund regulation if the employee seeks to raise funds for legal expenses arising from those legal matters.
      i. Arising from official position
      ii. Differentiating between personal matters and official matters
      iii. Arising from candidacy or election
      iv. Arising from nomination to a government position

II. Structure of a legal expense fund
   a. Number of eligible beneficiaries for a legal expense fund
      i. Sole beneficiary versus multiple beneficiaries
      ii. Named vs. unnamed beneficiaries
   b. Legal structure used to establish a legal expense fund
      i. Trust versus other forms (LLC, crowdsourcing)
      ii. Use of crowdsourcing within a trust
      iii. The possibility of different rules for different types of employees.
   c. Cost for employees to establish a trust

III. Limitations on the types of donors and amount of donations to legal expense funds
   a. Use of “prohibited source” definition versus list of types of prohibited donors
   b. Organizations versus individual donors
   c. Contribution limits

IV. Reporting requirements (transparency of spending)

V. Tax implications